

**In The Matter Of:**

*Stephen Keefe v.  
Local 805, ILA, AFL-CIO, et al.*

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*Joseph J. Picard, Jr.  
Vol. 1, May 9, 2006*

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*Original File PICARD.V1, 74 Pages  
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Volume I  
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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
STEPHEN KEEFE, :  
Plaintiff, :  
vs. : Civil Action  
: No. 04-11340-DPW

LOCAL 805, INTERNATIONAL :  
LONGSHOREMEN'S ASSOCIATION, :  
AFL-CIO; LOCAL 800, :  
INTERNATIONAL LONGSHOREMEN'S :  
ASSOCIATION, AFL-CIO; and :  
LOCAL 799, INTERNATIONAL :  
LONGSHOREMEN'S ASSOCIATION, :  
AFL-CIO, :

Defendants. :

DEPOSITION OF JOSEPH J. PICARD, JR., a  
witness called on behalf of the Plaintiff, taken  
pursuant to the Federal Rules of Civil Procedure,  
before Valerie L. Shand-Safama, Professional  
Shorthand Reporter and Notary Public in and for the  
Commonwealth of Massachusetts, at the Offices of  
Mullen & McGourty, 52 Temple Place, Fourth Floor,  
Boston, Massachusetts, on Tuesday, May 9, 2006,  
commencing at 10:21 a.m.

PRESENT:

Scott A. Lathrop & Associates  
(By Scott A. Lathrop, Esq.)  
122 Old Ayer Road, Groton, MA 01450,  
for the Plaintiff.

Mullen & McGourty  
(By Michael J. Mahoney, Esq.)  
52 Temple Place, Fourth Floor,  
Boston, MA 02111, for the Defendants.

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PRESENT (Continued):  
Law Offices of Bernice McNealley & Nugent  
(By Edward J. McNealley, Esq.)  
101 Tremont Street, Suite 700,  
Boston, MA 02108, for the Deponent.  
ALSO PRESENT: Stephen Keefe

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WITNESS DIRECT CROSS REDIRECT RECROSS

JOSEPH J. PICARD, JR.  
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BY MR. McNELLEY 81  
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EXHIBITS

NO.	DESCRIPTION	PAGE
1	Copy of a document headed "Hiring 15 Hall Work Rules"	
2	Copy of a letter to William R. 24 McNamara, Vice President I.L.A. from Locals 799, 800, and 805, signed by Joseph Picard, Chairman Rules Committee, dated September 20, 2003, with enclosures	
3	Copy of a document stamped 38 "Enclosure 18" sent to William McNamara from Rules Committee, Locals 799, 800, and 805	
4	Copy of a document from Rules 39 Committee, Locals 799, 800, and 805 to Union Member Stephen Keefe	

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EXHIBITS, Continued

NO.	DESCRIPTION	PAGE
5	Copy of a document from Rules 45 Committee, Locals 799, 800, and 805 sent to Stephen Keefe	
6	Copy of a document from Rules 45 Committee, Locals 799, 800, and 805 sent to Union Member Stephen Keefe	
7	Copy of a domestic return receipt 45 for an article sent to Stephen Keefe, Article No. 7002 2030 0006 6875 9853	
8	Copy of a document from Rules 50 Committee, Locals 799, 800, and 805 to Union Member Stephen Keefe	
9	Copy of a two-page article dated 51 June 23, 2005, from the Website <a href="http://www.SouthBostonOnline.com">www.SouthBostonOnline.com</a>	
10	Copy of a document headed "PACER 65 Service Center, Transaction Receipt"	

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**PROCEEDINGS**

[1] **MR. LATHROP:** Stipulations?

[2] **MR. MAHONEY:** Usual.

[3] **MR. LATHROP:** And do you want him to read

[4] and sign?

[5] **MR. McNELLEY:** Also, that you've had a

[6] chance to examine the tax returns from Mr. Picard

[7] and Mrs. Picard from 2002 and, with the exception of

[8] one Federal ID number from the year 2004,

[9] No. 043209245 reporting income of \$429, you're

[10] satisfied that all of those salaries came from his

[11] work as a longshoreman.

[12] **MR. LATHROP:** I have no evidence to the

[13] contrary based upon that.

[14] **MR. McNELLEY:** Well, either it is or it

[15] isn't.

[16] **MR. LATHROP:** Yeah. That's what I said.

[17] **MR. McNELLEY:** Okay. Then it is.

[18] Then, we're satisfied that all of his

[19] income has been derived from his income working as a

[20] longshoreman in the Port of Boston.

[21] **MR. LATHROP:** No, I won't stipulate to

[22] that. I'll stipulate that you produced income tax

[23] returns, and I'm satisfied with income tax returns.

[24]

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[1] **MR. McNELLEY:** You're satisfied that they

[2] are showing that all of his income was produced from

[3] his work as a longshoreman for the Port of Boston.

[4] **MR. LATHROP:** From his income tax returns,

[5] yes.

[6] **MR. McNELLEY:** Okay. That's all we need to

[7] stipulate.

[8] **MR. LATHROP:** But the stipulation I was

[9] seeking was stipulations for the deposition.

[10] **MR. McNELLEY:** Fine. The usual.

[11] **MR. LATHROP:** And what do you call the

[12] "usual"?

[13] **MR. McNELLEY:** Whichever, you know, you

[14] find satisfactory. It's your show.

[15] **MR. LATHROP:** Reserve all objections,

[16] except as to form, and motions to strike until time

[17] of trial. He'll read and sign within 30 days of the

[18] presentation, and we can waive the requirement that

[19] it be signed before a notary. Is that acceptable?

[20] **MR. McNELLEY:** Fine.

[21]

[22]

[23]

[24]

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[1] **JOSEPH J. PICARD, JR.**

[2] a witness called for examination by counsel for the

[3] Plaintiff, having been satisfactorily identified by

[4] the production of his driver's license and being

[5] first duly sworn by the Notary Public, was examined

[6] and testified as follows:

**DIRECT EXAMINATION**

**BY MR. LATHROP:**

[8] **Q:** Could you please state your full name and

[9] address for the record.

[10] **A:** Joseph J. Picard, Jr.

[11] **Q:** And your address?

[12] **A:** 134 Porter Street, Melrose, MA.

[13] **Q:** And what's your date of birth?

[14] **A:** 7/16/54.

[15] **Q:** Briefly describe your educational

[16] background.

[17] **A:** Graduated high school.

[18] **Q:** Which high school?

[19] **A:** South Boston High.

[20] **Q:** When?

[21] **A:** 1973.

[22] **Q:** Could you describe your employment history

[23] over the last 20 years.

[24]

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[1] **A:** I've been working for Boston I.L.A. for the

[2] last 29 years.

[3] **Q:** And for the uninitiated, what is the

[4] "Boston I.L.A."?

[5] **A:** International Longshoremen's Association.

[6] For Local 800.

[7] **Q:** Do you hold any positions with any

[8] employers?

[9] **A:** Yeah. Related to the Boston longshoremen

[10] or anywhere else?

[11] **Q:** Anyplace.

[12] **A:** Yeah. I get paid for Columbia Coastal.

[13] **Q:** Say it again?

[14] **A:** Columbia Coastal.

[15] **Q:** And what position, if any, do you hold with

[16] Columbia Coastal?

[17] **A:** I'm a stevedore.

[18] **Q:** Is that the only position you hold with

[19] Columbia Coastal?

[20] **A:** Yes.

[21] **Q:** Have you held any positions with the

[22] I.L.A.?

[23] **A:** That I get paid for, no.

[24] **Q:** Have you held any nonpaying position with

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[1] the I.L.A.?

[2] A: Rules Committee.

[3] Q: And could you tell the uninitiated what the  
[4] Rules Committee is?

[5] A: The Rules Committee was created to uphold  
[6] all the bylaws that we have in our union. We have  
[7] three men from each local that meets once a month  
[8] and go through all the rules.

[9] Q: Is there more than one local that  
[10] participates in the Rules Committee?

[11] A: Locals 799, 800, and 805.

[12] Q: What's the jurisdiction of Local 800?

[13] MR. MAHONEY: Object to the form.

[14] Q: What is the jurisdiction of Local 800?

[15] A: What do you mean "jurisdiction"?

[16] Q: Well, does it cover a specific geographical  
[17] territory?

[18] A: Just Boston I.L.A., all three locals.

[19] Well, the 800 doesn't affect 799 and 805. We'd have  
[20] no rights, so we don't go to their meetings. It's  
[21] just our local meetings.

[22] And all three locals, just to make sure, if  
[23] you want to get moved to a new gang, you'd need to  
[24] go through all nine guys. There's three each.

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[1] Q: Does Local 800 cover the Port of Boston?

[2] A: (Nods head)

[3] Q: Is that a yes?

[4] A: Yes.

[5] Q: Does 799 cover the Port of Boston?

[6] A: Yes.

[7] Q: Does 805 cover the Port of Boston?

[8] A: Yes.

[9] Q: How does one become a member of one  
[10] particular local as opposed to another?

[11] A: I don't know how 799 and 805 run. It's  
[12] only Local 800 I know. If you get 400 hours, you  
[13] get into the union. You put your name on a list.  
[14] And if we need more people, we pick them up, or  
[15] applications.

[16] Q: Do you have any understanding of how  
[17] someone becomes a member of, for example, Local 800  
[18] as opposed to Local 799?

[19] A: No. Their rules are different than ours.

[20] Q: Do you have any understanding as to the  
[21] difference as to how one becomes a member of Local  
[22] 800 as opposed to a member of Local —

[23] A: Right now, no. I don't know how they do  
[24] it.

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[1] Q: Have you at any point had any  
[2] understanding?

[3] A: Yes.

[4] Q: And when did you have this understanding?

[5] A: Years ago, you could pick man of the year.

[6] You got one man of the year to take in. Or if  
[7] you're father died, you'd pick your father's card  
[8] up.

[9] Q: And become a member of that same local?

[10] A: Right.

[11] Q: How did you become a member of Local 800?

[12] A: Man of the year.

[13] Q: When were you man of the year?

[14] A: 1977.

[15] Q: And what did you have to do to become man  
[16] of the year in 1977?

[17] A: (Shakes head) I was man of the year in  
[18] 1977. I didn't do anything.

[19] Q: You have no understanding as to how you  
[20] were designated man of the year in 1977?

[21] A: No, I don't.

[22] Q: Do you have any understanding as to who  
[23] designated you man of the year?

[24] A: My father told me I'd get in the union in

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[1] 1977. I was picked man of the year.

[2] Q: Was your father in the local?

[3] A: Yes.

[4] Q: Did he ever serve in any position in the  
[5] local?

[6] A: No.

[7] Q: Now, you said you were on Rules Committee?

[8] A: Uh-huh.

[9] Q: Is that a yes?

[10] A: Yes. I'm sorry.

[11] Q: And over what period of time were you on  
[12] the Rules Committee?

[13] A: Oh, I've been in there ten years now maybe.

[14] Q: Are you still on the Rules Committee?

[15] A: Yes, I am.

[16] Q: And you think you began in the Rules  
[17] Committee approximately ten years ago?

[18] A: Yeah, maybe ten years ago, eight years ago.  
[19] I stepped off for a year, and then I went back on.

[20] Q: Do you recall what year it was that you  
[21] stepped off?

[22] A: No. Five years ago?

[23] Q: How did you become a member of the Rules  
[24] Committee?



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[1] A: Had an election. We had an election and I  
[2] was picked for the Rules Committee. My local had an  
[3] election.  
[4] Q: So is it fair to say that members of the  
[5] Rules Committee are elected by their respective  
[6] unions?  
[7] A: Yes.  
[8] Q: And there are three Local 800 members on  
[9] the Rules Committee?  
[10] A: Yes.  
[11] Q: Has that been true throughout the ten years  
[12] you've been on the Rules Committee?  
[13] A: Yes.  
[14] Q: When you were elected, how long was the  
[15] term for?  
[16] A: Two years.  
[17] Q: So you've been reelected approximately five  
[18] times?  
[19] A: Yes.  
[20] Q: And you said you stepped down one year?  
[21] A: Yeah. I didn't run one year.  
[22] Q: Do you recall when that was?  
[23] A: It was three or four — four years ago.  
[24] I'm not sure.

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[1] Q: Have you ever been chairman of the Rules  
[2] Committee?  
[3] A: Yes.  
[4] Q: At what point in time have you been  
[5] chairman of the Rules Committee?  
[6] A: Four years ago approximately.  
[7] Q: How did you become chairman?  
[8] A: When the new elections, the new officers  
[9] met, they appointed me chairman.  
[10] Q: Are you saying that the other members of  
[11] the Rules Committee nominated or elected you as the  
[12] chairman of the committee?  
[13] A: Yes.  
[14] Q: How long did you serve as chairman?  
[15] A: About four years.  
[16] Q: From when —  
[17] A: Six years. 2001, maybe, to 2004.  
[18] Q: You mentioned that you had stepped down at  
[19] some point in time.  
[20] A: Yeah, I didn't run.  
[21] Q: Was that prior to you being chairman of the  
[22] Rules Committee?  
[23] A: I think it was after.  
[24] Q: Sometime since 2004?

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[1] A: Yeah. At the election in 2004 I didn't  
[2] run.  
[3] Q: But you currently are on the Rules  
[4] Committee?  
[5] A: Yes.  
[6] MR. LATHROP: Would you please mark this as  
[7] the first exhibit, No. 1.  
[8] (Document marked as Picard  
[9] Exhibit 1 for identification)  
[10] MR. LATHROP: Would you like to see this?  
[11] MR. MAHONEY: Hiring Hall Rules?  
[12] MR. McNELLEY: Yeah.  
[13] Q: Mr. Picard, I'm showing you what's been  
[14] marked as Exhibit 1, which purports to be Hiring  
[15] Hall Work Rules with five pages, Rules 1 through 38.  
[16] I ask you, can you identify that document?  
[17] A: Yes.  
[18] Q: Have you seen that document before?  
[19] A: Yes.  
[20] Q: And, indeed, is that the Hiring Hall Work  
[21] Rules applicable to Locals 799, 800, and 805?  
[22] A: Yes.  
[23] Q: Now, let me draw your attention to Rule 36.  
[24] Are you familiar with Rule 36?

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[1] A: (Reviewing document) Yes.  
[2] Q: Could you read into the record Rule 36.  
[3] A: "If a member wishes to move from gang 12 to  
[4] Gang 11, they must sign a pledge sheet and appear  
[5] before the Rules Committee. They must bring  
[6] significant proof that they are working exclusively  
[7] at the craft, such as notarized retirement or  
[8] resignation papers, tax returns or any other  
[9] documents that are pertinent. The burden of proof  
[10] rests with the bargaining unit member."  
[11] Q: Okay. Do you have any understanding as to  
[12] how that rule came into effect?  
[13] A: I guess the port voted on it, the port-wide  
[14] vote voted on it.  
[15] Q: What do you mean by "the port"?  
[16] A: The Rules Committee don't make the rules  
[17] up. The whole port makes the rules up.  
[18] Q: I'm unfamiliar with your — when you say  
[19] the port, do you mean —  
[20] A: All three locals.  
[21] Q: All three locals at a single meeting?  
[22] A: Yes. A single vote.  
[23] Q: When you say "a single vote," is that at a  
[24] single meeting?

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[1] A: Yes.  
 [2] Q: Do you recall when Rule 36 was voted?  
 [3] A: No.  
 [4] Q: You note the date of this document?  
 [5] A: September '99.  
 [6] Q: So this rule was in effect —  
 [7] A: At least as of September '99.  
 [8] Q: — as of September '99?  
 [9] A: Yeah.  
 [10] Q: You said you believed you joined the Rules  
 [11] Committee in approximately 1996. Was this rule in  
 [12] effect in 1996?  
 [13] A: I don't have any rules on that. Maybe.  
 [14] Yeah. I wasn't on the Rules Committee the first  
 [15] four years, four to six, four years.  
 [16] Q: Let me ask the question in a different way:  
 [17] When you first joined the Rules Committee, was  
 [18] Rule 36 in effect?  
 [19] A: Yes. So I might have joined in September.  
 [20] Not ten years. Maybe eight years, six years.  
 [21] Q: Okay. Do you know if there is any document  
 [22] defining how Rule 36 should be applied by the Rules  
 [23] Committee?  
 [24] A: Do I have any documents? No.

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[1] Q: Are you aware of any documents that define  
 [2] how Rule 36 should be implemented by the Rules  
 [3] Committee?  
 [4] A: No.  
 [5] Q: Okay. Would you agree with me that Rule 36  
 [6] talks about working exclusively at the craft?  
 [7] A: Uh-huh.  
 [8] Q: That's a yes?  
 [9] A: Yes.  
 [10] Q: It does not talk about having another  
 [11] income?  
 [12] A: Right.  
 [13] Q: And in fact, during your tenure as a member  
 [14] of the Rules Committee, you personally have had  
 [15] other income other than working as a longshoreman,  
 [16] correct?  
 [17] A: I'm not sure what you're talking about.  
 [18] Q: You own certain rental properties, do you  
 [19] not?  
 [20] A: Oh, sure, yes.  
 [21] Q: And you have income from that?  
 [22] A: Yes.  
 [23] Q: And during your tenure on the Rules  
 [24] Committee, at least you personally did not deem that

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[1] rental income to be violating this "working  
 [2] exclusively at the craft" rule —  
 [3] A: Right.  
 [4] Q: — correct?  
 [5] A: Right.  
 [6] Q: Why is that?  
 [7] A: It's not a job.  
 [8] Q: So it has to be a job?  
 [9] A: A job.  
 [10] Q: And what are the characteristics of the job  
 [11] that would violate working exclusively at the craft?  
 [12] A: Work for somebody and getting paid for it.  
 [13] Q: What about being self-employed?  
 [14] A: Or self-employed.  
 [15] Q: If someone is self-employed in another  
 [16] occupation, at least in your opinion, that's not  
 [17] working exclusively at the craft, correct?  
 [18] A: Right.  
 [19] Q: During the course of your tenure in  
 [20] Local 800, have you ever been self-employed?  
 [21] A: No.  
 [22] Q: Have you ever been involved in the heating  
 [23] insulation business?  
 [24] A: Heat and insulation, no.

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[1] Q: Building and construction?  
 [2] A: Yes.  
 [3] Q: What was the nature of your involvement in  
 [4] the building and construction business?  
 [5] A: I'd buy a piece of property and build it,  
 [6] have someone build it.  
 [7] Q: Give me an example.  
 [8] A: I'd buy a vacant land, build a house on it,  
 [9] and sell it.  
 [10] Q: Were you actively involved in the  
 [11] management of that building of that property?  
 [12] A: How I say it? I fronted the money, yes.  
 [13] Did I do any work on the building? Is that what  
 [14] you're asking me?  
 [15] Q: I'm asking several different things. Let's  
 [16] break it apart.  
 [17] A: Sure.  
 [18] Q: Over the time that you've been on the Rules  
 [19] Committee, how many pieces of property have you so  
 [20] purchased?  
 [21] A: Oh, let's see. Pieces of property? One  
 [22] while I've been on the Rules Committee.  
 [23] Q: Where is that located?  
 [24] A: 238 Breman Street, East Boston.

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[1] Q: And were you the sole purchaser of that  
[2] piece of property?  
[3] A: Uh-huh.  
[4] Q: Is that a yes?  
[5] A: Yes.  
[6] Q: And what, if anything, did you do with that  
[7] piece of property?  
[8] A: It was a three-family. It wasn't a piece  
[9] of land. It was a three-family.  
[10] Q: What, if anything, did you do to that  
[11] that —  
[12] A: I rehabbed it, fixed up the bathroom and  
[13] kitchens.  
[14] Q: Who did that work?  
[15] A: I did.  
[16] Q: Personally?  
[17] A: Personally.  
[18] Q: How long did it take you to do that work?  
[19] A: Two months, a month — two months.  
[20] Q: Did you employ anyone else to assist you in  
[21] rehabbing the house?  
[22] A: No.  
[23] Q: What other work, if any, did you do on the  
[24] property?

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[1] A: Put a gutter, fixed the gutter, and put  
[2] some windows in, new windows.  
[3] Q: Okay. Have you done any other work on the  
[4] piece of property?  
[5] A: I painted it. That's it. That's about it.  
[6] Q: Okay. And you did this while you were on  
[7] the Rules Committee?  
[8] A: Yes.  
[9] Q: And, I'm sorry, is it your thought that  
[10] your tenure with the Rules Committee essentially  
[11] coincides with the existence of Rule 36?  
[12] A: Uh-huh.  
[13] Q: And that's a yes?  
[14] A: Yes.  
[15] Q: Okay. This piece of property — I think  
[16] you said in South Boston — what, if anything, have  
[17] you done with it?  
[18] MR. MAHONEY: East Boston.  
[19] MR. LATHROP: Thank you.  
[20] Q: East Boston. What, if anything, have you  
[21] done with it?  
[22] A: Nothing.  
[23] Q: Do you still own it?  
[24] A: I still own it.

Page 23

[1] Q: Do you rent it?  
[2] A: Yes.  
[3] Q: Do you receive an income from that rental?  
[4] A: It pays for itself, yes.  
[5] Q: I mean, you rent it out for a certain fixed  
[6] amount of money, yes?  
[7] A: Yes.  
[8] Q: Do you do any maintenance work on the  
[9] house?  
[10] A: Do I do maintenance on it?  
[11] Q: Yes.  
[12] A: If it needs it, yes.  
[13] Q: You physically do that yourself?  
[14] A: Yes.  
[15] Q: What other kind of — what kind of physical  
[16] maintenance work do you do on the house?  
[17] A: On that house?  
[18] Q: Yeah.  
[19] A: Fix the sink if the sink breaks. Fix the  
[20] tub if the tub breaks. Change a light bulb.  
[21] Q: You deem that to be work?  
[22] A: What do you mean "work"? Labor?  
[23] Q: Well, Rule 36 says "working exclusively at  
[24] the craft?"

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[1] A: Right.  
[2] Q: Do you deem your physical efforts in — at  
[3] the East Boston property to be work?  
[4] A: No.  
[5] Q: Why not?  
[6] A: Because I'm exclusively at the craft  
[7] because I don't work anywhere else.  
[8] Q: That's your conclusion. But why do you  
[9] believe that that is not working?  
[10] A: I just believe that.  
[11] Q: Oh, okay. That's your belief. Okay.  
[12] MR. LATHROP: Please let's mark this as the  
[13] next exhibit in line.  
[14] (Document marked as McGaffigan  
[15] Exhibit 2 for identification)  
[16] MR. MAHONEY: Do you have all of the  
[17] enclosures that were attached to this letter?  
[18] MR. LATHROP: These are what you — yes.  
[19] Put it —  
[20] MR. MAHONEY: But they're not attached to  
[21] this document now.  
[22] MR. LATHROP: Let me state it differently.  
[23] This is everything — this is the way you used it  
[24] yesterday, Michael.



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Page 2'

[1] MR. MAHONEY: Okay.

[2] MR. LATHROP: It does not have Attorney  
[3] McMahon's cover letter. But otherwise it's in the  
[4] entirety as the exhibit you used yesterday.

[5] MR. MAHONEY: Okay. And so —

[6] MR. McNELLEY: I'd just like to put on the  
[7] record here this is the deposition of Mr. Joseph  
[8] Picard, not what occurred yesterday.

[9] MR. LATHROP: I understand. I was just  
[10] responding to —

[11] MR. McNELLEY: I'd just like to make it  
[12] clear that what occurred between you or another  
[13] attorney yesterday is really none of my concern or  
[14] Mr. Picard's concern. So could we please direct  
[15] your focus to what we're dealing with here today.

[16] MR. LATHROP: I would like to. Direct  
[17] your questions to Mr. McMahon. He asked a question.

[18] MR. McNELLEY: I would suggest if you two  
[19] have a dispute, you should probably take it outside  
[20] and square it away.

[21] MR. LATHROP: I don't think we have a  
[22] dispute.

[23] MR. McNELLEY: Okay.

[24]

[1] Q: Okay. Now, at least the first four pages  
[2] are, in fact, your letter to a William McNamara  
[3] dated September 20, 2003, correct?

[4] A: Yes.

[5] Q: Now, let me ask you: There are certain  
[6] documents that have been marked as enclosures that  
[7] are, at least currently, attached to this document.

[8] Were these enclosures to your letter to  
[9] Mr. McNamara?

[10] A: Yes.

[11] Q: And looking at what is been marked on the  
[12] bottom as "Enclosure 14" —

[13] A: 14.

[14] Q: — that's a document you created?

[15] A: No.

[16] Q: Do you know who created that document?

[17] A: No. It was in the hiring hall. These are  
[18] records from the hiring hall.

[19] Q: "These" being also Enclosure 11 and  
[20] Enclosure 12?

[21] A: Yes.

[22] Q: Okay. Now, I want to direct your attention  
[23] to Page 3 of the letter. In approximately the third  
[24] line, you state, quote, the Rules Committee is

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[1] BY MR. LATHROP:

[2] Q: In any case, Mr. Picard, I'm now showing  
[3] you a document that's been marked as Exhibit 2 for  
[4] the purposes of this deposition, which purports to  
[5] be a letter with attachments from yourself to a  
[6] William R. McNamara dated September 20, 2003.

[7] Do you recognize this document?

[8] A: (Reviewing documents)

[9] MR. McNELLEY: Could I just go back here.  
[10] Are you saying that this document is from  
[11] Mr. Picard? Could you show me where that is,  
[12] please?

[13] (Discussion off the record)

[14] MR. MAHONEY: It's signed on Page 4.

[15] MR. McNELLEY: Okay, great.

[16] BY MR. LATHROP

[17] Q: Let me try this again. Mr. Picard, I'm  
[18] showing you Exhibit 2, which purports to be a  
[19] four-page letter from yourself to Mr. McNamara dated  
[20] September 20, 2003, with certain attachments.

[21] After you've had a time to review that,  
[22] I'll ask you whether or not you recognize the  
[23] letter.

[24] A: Uh-huh. I recognize this letter.

[1] required to investigate each and every individual  
[2] that wants to stay in Gangs 1 through 11."

[3] A: Yes.

[4] Q: During your tenure on the Rules Committee,  
[5] what investigation does the Rules Committee  
[6] undertake?

[7] A: Well, we don't — we don't head hunt and  
[8] look for everybody and try to track everybody down.  
[9] We're not doing that. We actually took anybody that  
[10] comes into the new local, asked them for their  
[11] Social Security papers — first their taxes. And  
[12] nobody wanted to give taxes because their kids'  
[13] Social Security numbers is on there and stuff like  
[14] that.

[15] So we came up with the Social Security  
[16] papers from the Social Security office, stamped.  
[17] And they'd have to come in and produce those to us.  
[18] And that shows where everybody — where you worked.

[19] Q: Do I understand correctly that this is a  
[20] requirement that you have only of new members?

[21] A: First, for the new members coming in. And  
[22] then we went to Gangs 10 and 11, and then we went to  
[23] 1 through 9, and then we went to all the steady  
[24] help. Everybody in the Port of Boston had to go



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[1] through this.

[2] Q: When did everybody in the Port of Boston  
[3] have to go through this?

[4] A: Oh, at least three years ago, four years  
[5] ago — at least four years ago, 2001, 2002 they did  
[6] that.

[7] Q: And I'm sorry. Could you state again  
[8] exactly what you required everyone in the port to go  
[9] through?

[10] A: You must have your Social Security papers  
[11] given to the Rules Committee or to the president of  
[12] your local. The president of the local would give  
[13] it to the Rules Committee. The Rules Committee has  
[14] to have everybody's Social Security papers.

[15] Q: Looking further down the page, you see the  
[16] name William Cocchi?

[17] A: Cocchi?

[18] Q: C-o-c-c-h-i.

[19] A: What page is that?

[20] Q: The same page.

[21] MR. McNELLEY: (Indicating)

[22] A: Oh, okay.

[23] Q: Do you have any understanding of how it was  
[24] discovered that he was working full time for the

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[1] he signed a pledge sheet that he did not work  
[2] another job.

[3] Q: Do you know a Daniel Considine?

[4] A: Yeah.

[5] Q: Do you have any understanding as to what  
[6] other job he held?

[7] A: Boston Water and Sewer.

[8] Q: Do you have any understanding as to how the  
[9] Rules Committee came to learn that he had another  
[10] job?

[11] A: No. I don't know how. He said — he got  
[12] suspended, I think. I don't know how they found  
[13] out. I'm not sure how they found out.

[14] Q: Edward Considine. Do you have any  
[15] understanding as to —

[16] A: Same way. I think he's Boston Water — I'm  
[17] not sure where he is. He's Boston Water and Sewer,  
[18] too, I think.

[19] Q: My question to you, sir, with regard to  
[20] Edward Considine is, do you have any understanding  
[21] as to how —

[22] A: No.

[23] Q: Let me finish my question. — how the Rules  
[24] Committee came to understand that he had a full-time

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[1] U.S. Post Office?

[2] A: He worked — Billy Cocchi. I don't know  
[3] who he is. Oh, yes. I know who he is. Yes.

[4] Q: Do you have any understanding of how it was  
[5] come to be believed that he was working full time  
[6] for the U.S. Post Office?

[7] A: We didn't know he was working full time. I  
[8] didn't know he was working full time.

[9] Q: You wrote this letter, did you not?

[10] A: Well, the Rules Committee wrote this  
[11] letter. I guess I was chairman, so I signed it.

[12] But the Rules Committee wrote this, you know.

[13] Q: Do you have any understanding as to whether  
[14] or not Mr. Cocchi was, in fact, at some point in  
[15] time working full time for the U.S. Post Office?

[16] A: Yes.

[17] Q: What's the basis of your understanding?

[18] A: That I think he got Social Security  
[19] papers — must have got Social Security papers, or  
[20] he jumped out of Gang 11 because he got another job.  
[21] I don't know if he was suspended or not. Before he  
[22] was — he never got back to work. Since this  
[23] happened, he just left. Never come back.

[24] When he came in and signed a pledge sheet,

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[1] job for the State?

[2] A: I don't know how they found out.

[3] Q: The next name?

[4] A: Pat Considine, yeah.

[5] Q: Now, the line here says "Sheriff's  
[6] department full time, full benefits, paren,  
[7] disability, close paren."

[8] (Cell phone ringing)

[9] Q: What did you mean to convey by that?

[10] A: The disability? I don't know.

[11] Q: Was he receiving disability payments?

[12] A: Yes. He was on disability. He got hurt.

[13] I think it was worker's comp. I don't think it's  
[14] disability. It was workers' compensation.

[15] Q: And he was receiving either workers'  
[16] compensation or disability from the State?

[17] A: Uh-huh.

[18] Q: Yes?

[19] A: Yes.

[20] Q: And because of his receipt of that, he was  
[21] deemed to be not working exclusively at the craft?

[22] A: He has a full-time job at the sheriff's  
[23] department, yes.

[24] Q: Well, I'm sorry. I don't understand.

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[1] A: He has a — he admitted he had a full-time  
 [2] job at the sheriff's department.  
 [3] Q: But was he on disability or not —  
 [4] A: He is now.  
 [5] Q: — from the sheriff's department? He is  
 [6] now? At the time that he was receiving — do you  
 [7] know when his disability began?  
 [8] A: No.  
 [9] Q: Do you know the Rules Committee considered  
 [10] him to be violating the "working exclusively at the  
 [11] craft" requirement whether he was receiving  
 [12] disability or workers' compensation?  
 [13] MR. MAHONEY: Object to the form. You can  
 [14] answer.  
 [15] A: I'm not sure if — if he holds a job,  
 [16] disability or not disability, he violates the  
 [17] Rule 36.  
 [18] Q: Even if you're receiving disability, in  
 [19] your opinion, from another job —  
 [20] A: Well, he had another job, too. It  
 [21] wasn't — he admitted he worked for the Boston  
 [22] Gardens.  
 [23] Q: Okay. That's not listed in this document,  
 [24] is it?

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[1] A: No, it's not. But he said he had another  
 [2] job, plus he gave us his resignation that he  
 [3] resigned from the Boston Gardens. So he had that  
 [4] and so did Mr. — well, all three Considines worked  
 [5] for Boston Gardens. Now they work for Boston  
 [6] Yachts.  
 [7] Q: As you understood it.  
 [8] A: He came to Gang 11. Came to the Rules  
 [9] Committee and wanted to be put in Gang 11. He said  
 [10] he resigned from the sheriff's department. He gave  
 [11] a letter of resignation that he resigned. Now he's  
 [12] in Gang 11. Disability or not disability, he  
 [13] doesn't work there anymore.  
 [14] Q: So was he ever suspended for violating  
 [15] Rule 36?  
 [16] A: Yes.  
 [17] Q: What were the circumstances of his  
 [18] suspension, then?  
 [19] A: I wasn't on the Rules Committee then, when  
 [20] he was suspended.  
 [21] Q: Was that during the year you took off or  
 [22] prior to you serving —  
 [23] A: Prior. It was prior. It was prior to  
 [24] that.

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[1] I never suspended any of these people here  
 [2] or was involved in the suspension of most of these  
 [3] people here.  
 [4] Q: What do you mean you were not involved in  
 [5] it?  
 [6] A: I wasn't on the Rules Committee when these  
 [7] people were suspended except Mr. Keefe.  
 [8] Q: So just to be clear here, all of these  
 [9] people except Mr. Keefe were suspended —  
 [10] A: Before I came on the committee.  
 [11] Q: So the only person suspended during your  
 [12] tenure on the Rules Committee for violating Rule 36  
 [13] is Mr. Keefe?  
 [14] A: No. No, I'm just saying these people here  
 [15] (indicating).  
 [16] Q: At least the people on this list —  
 [17] A: Yeah.  
 [18] Q: Okay. Can you think of anybody else that  
 [19] been suspended while you've been on the Rules  
 [20] Committee?  
 [21] MR. MAHONEY: That's not on the list?  
 [22] MR. LATHROP: Other than Mr. Keefe.  
 [23] A: Bob Seals. I think it's Bob Seals — well,  
 [24] he wasn't suspended. He was thrown back into

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[1] Gang 12. He was put back in Gang 12 from Gang 11.  
 [2] Q: Not suspended?  
 [3] A: Not suspended.  
 [4] Q: Anyone else?  
 [5] A: That's the only one I know.  
 [6] Q: And do you know the circumstances for which  
 [7] Mr. Seals was put back to Gang 12?  
 [8] A: Yes. He come in — he signed a pledge  
 [9] sheet. He worked one day over Old Colony Terminal.  
 [10] He worked one day for us. The next day he come in  
 [11] with a — he came in with a car dealership. He had  
 [12] dealers plates on his car.  
 [13] They said, "You can't do that. You can't  
 [14] have two jobs. You signed a pledge sheet." He  
 [15] never come back. Never suspended but never come  
 [16] back. He worked one day — probably worked four  
 [17] hours.  
 [18] Q: Okay. And so it's your interpretation that  
 [19] owning a business violates Rule 36?  
 [20] A: If you work there...  
 [21] Q: Okay. Could you look at the next page.  
 [22] A: (Witness complies)  
 [23] Q: Looking at the first full paragraph, the  
 [24] second sentence, "To date, all members in Gangs 1

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[1] through 11 are required to bring tax returns and/or  
[2] Social Security information."  
[3] A: Uh-huh.  
[4] Q: Did I read that accurately?  
[5] A: Yes.  
[6] Q: Does the Rules Committee keep all the  
[7] documents or copies of all the documents brought to  
[8] it by members in Gangs 1 through 11?  
[9] A: No, not necessarily.  
[10] Q: Okay. Do you ask people to bring in  
[11] Schedule Cs to their tax returns?  
[12] A: Nope.  
[13] We had a lot of problems with this taxes  
[14] because their wives are on there, and that's none of  
[15] our business what their wives do, and their  
[16] children's Social Security is are on there. So we  
[17] had a problem with taxes in.  
[18] So then we said you only need to bring in  
[19] Social Security papers, so we really don't bring in  
[20] taxes anymore, just Social Security papers.  
[21] Q: Do you know what a Schedule C is?  
[22] A: No.  
[23] Q: Well, what investigation do you do to see  
[24] whether or not someone is self-employed?

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[1] A: I don't.  
[2] Q: The Rules Committee does not do any  
[3] investigation to see whether or not someone is --  
[4] A: No.  
[5] Q: -- self-employed in another occupation?  
[6] A: No.  
[7] Q: Even though being self-employed in another  
[8] occupation would be a violation of Rule 36?  
[9] A: Right.  
[10] MR. LATHROP: Please mark this as the next  
[11] exhibit in line.  
[12] (Document marked as Picard  
[13] Exhibit 3 for identification)  
[14] MR. LATHROP: This is Enclosure 18. This  
[15] is my only copy.  
[16] Q: Mr. Picard, I'm showing you what's been  
[17] marked as Exhibit --  
[18] MR. McNELLEY: May I see it first, please?  
[19] MR. LATHROP: Sure.  
[20] Q: Mr. Picard, I'm showing you what's been  
[21] marked as Exhibit 3, which purports to be a letter  
[22] from yourself to Mr. McNamara, undated.  
[23] A: Right.  
[24] Q: Do you recognize that?

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[1] A: Yes.  
[2] Q: And are all your statements in that letter  
[3] true and accurate?  
[4] A: Uh-huh.  
[5] Q: That's a yes?  
[6] A: Yes, yes.  
[7] MR. LATHROP: Please mark this as the next  
[8] exhibit in line.  
[9] (Document marked as Picard  
[10] Exhibit 4 for identification)  
[11] MR. MAHONEY: What number was 3 from  
[12] yesterday?  
[13] MR. LATHROP: I don't have them organized  
[14] like that.  
[15] MR. MAHONEY: Well, what is that copy on  
[16] that sticker? What is that number?  
[17] MR. McNELLEY: This is your Exhibit 20.  
[18] MR. MAHONEY: 20, thank you. Okay.  
[19] MR. McNELLEY: And this is your Exhibit 15  
[20] from yesterday, the next document.  
[21] Q: Mr. Picard, I'm showing you Exhibit 4,  
[22] which purports to be a notice from the Rules  
[23] Committee to Union Member Stephen Keefe with regard  
[24] to a summons for February 6, 2003.

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[1] Do you recognize Exhibit 4?  
[2] A: (Reviewing document) Yes.  
[3] Q: Now, looking at Exhibit 3, the first  
[4] sentence references the fact that "On January 28,  
[5] 2003, I, Joseph Picard, mailed a summons to  
[6] Stephen Keefe, P.O. Box 726, Green Harbor, Mass,  
[7] 02041, Letter A. The letter was sent by regular  
[8] mail."  
[9] Is that a reference to what's now been  
[10] marked as Exhibit 4?  
[11] A: I think so, yes.  
[12] Q: So Exhibit 4 you sent by regular mail to  
[13] Mr. Keefe?  
[14] A: Uh-huh.  
[15] Q: That's a yes?  
[16] A: Yes.  
[17] Q: And do you have any proof that Mr. Keefe  
[18] ever received Exhibit 4?  
[19] A: Well, I sent a registered letter to sign.  
[20] Q: So you did not send it by regular mail?  
[21] A: I sent the first one by regular mail.  
[22] The second one I sent --  
[23] Q: We're going to limit the question at this  
[24] time to this one.



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(1) A: Right.  
 (2) Q: Do you have any evidence that Mr. Keefe  
 (3) received this —  
 (4) A: No.  
 (5) Q: Just let me finish. — particular letter,  
 (6) Exhibit 4?  
 (7) A: No.  
 (8) Q: No, okay. Now, the next sentence in  
 (9) Exhibit 3 says, "On February 6, 2003, Stephen Keefe  
 (10) was suspended for six months in violation of  
 (11) Rule 37. Mr. Keefe did not attend the meeting."  
 (12) Were you present at that —  
 (13) A: Yes.  
 (14) Q: — meeting? Were you chairman?  
 (15) A: I was chairman.  
 (16) Q: Okay. And when you say "Rule 37," do you  
 (17) actually mean Rule 36?  
 (18) A: Yes — let me see Rule 36. (Reviewing  
 (19) document) Right, 36.  
 (20) Q: And why did you send it out in the first  
 (21) place, Exhibit 4?  
 (22) A: Why did I call him in?  
 (23) Q: Yeah.  
 (24) A: The delegates — one of the delegates,

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(1) Q: And who is the "they" that said that he had  
 (2) another job?  
 (3) A: We had a deposition in our hands from the  
 (4) delegates. I don't know what you want me to —  
 (5) someone gave us the papers.  
 (6) Q: Who are the "delegates"?  
 (7) A: There's three men in all locals, one in  
 (8) each local that's — business agents.  
 (9) Q: Can you name them.  
 (10) A: Well, I didn't get it personally. They  
 (11) didn't hand it to me. They handed it to one of the  
 (12) other Rules Committee members, and they brought it  
 (13) up at the meeting.  
 (14) Q: Who else was on the Rules Committee at the  
 (15) time?  
 (16) A: Mark Kcho (phonetic). I think William  
 (17) Sullivan.  
 (18) Q: Patrick Garrity?  
 (19) A: Yes.  
 (20) Q: Bernard O'Donnell?  
 (21) A: Bernie O'Donnell, okay.  
 (22) Q: Michael Pine?  
 (23) A: Yeah, Michael Pine.  
 (24) Q: Conrad Bailey?

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(1) something came to our desk that he had a deposition,  
 (2) and in his deposition he stated that he had another  
 (3) job.  
 (4) Q: Did you read the deposition?  
 (5) A: I've read parts of that, yes. Not the  
 (6) whole thing.  
 (7) Q: At the time?  
 (8) A: Uh-huh.  
 (9) Q: And you believe it stated that he said he  
 (10) had another job?  
 (11) A: It said he had another job, yes.  
 (12) So we called him in because we didn't want  
 (13) to just read — we wanted to get his version of it.  
 (14) Q: Please recall as best you can everything  
 (15) that was said and done on February 6, 2003, with  
 (16) regard to Mr. Keefe.  
 (17) A: Oh, I can't recall.  
 (18) Q: Do you have any memory of what was said or  
 (19) done at that meeting?  
 (20) A: Well, it was brought up that in the  
 (21) papers — that he had he stated in a deposition that  
 (22) he had another job. So then because he said that in  
 (23) a deposition and he was under oath, he was  
 (24) suspended.

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(1) A: Yes.  
 (2) Q: I'm not sure if you mentioned  
 (3) Michael Connolly?  
 (4) A: Oh, okay. Mikey Connolly, yes.  
 (5) Q: Was Paul McGaffigan —  
 (6) A: I'm not sure.  
 (7) MR. MAHONEY: We've previously produced the  
 (8) minutes of that meeting.  
 (9) Q: In the next paragraph in Exhibit 3, you  
 (10) state, "On February 16, 2003, I, Joseph Picard,  
 (11) mailed a suspension letter and summons to  
 (12) Stephen Keefe, P.O. Box 726, Green Harbor, Mass.,  
 (13) 02041, to appear at the next meeting on March 5,  
 (14) 2003, Letters B and C. The letters were sent by  
 (15) certified mail."  
 (16) Why was that action taken?  
 (17) A: Because we wanted to talk to him and see if  
 (18) he had another job.  
 (19) Q: But he had already been suspended, had he  
 (20) not?  
 (21) A: He was suspended. If he wanted to appeal  
 (22) it, he could have come and told us.  
 (23) MR. LATHROP: Would you mark this as the  
 (24) next exhibit in line.

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(1) (Document marked as Picard  
(2) Exhibit 5 for identification)  
(3) MR. LATHROP: And these, please.  
(4) (Documents marked as Picard  
(5) Exhibits 6 and 7 for identification)  
(6) MR. McNELLEY: Do you have copies?  
(7) MR. LATHROP: No, unfortunately.  
(8) MR. MAHONEY: You can have mine.  
(9) Q: Mr. Picard, I'm showing you what's been  
(10) marked for this deposition as Exhibit 5, which is a  
(11) Rules Committee notice to Stephen Keefe with a  
(12) Letter B on it; Exhibit 6 for identification, which  
(13) is Rules Committee notice with the Letter C on it;  
(14) and Exhibit 7, which is a certified receipt signed  
(15) by Stephen Keefe.  
(16) Do you see that — those?  
(17) A: Yes.  
(18) Q: In Exhibit 3, you referenced Letters B and  
(19) C. Are these, in fact, the two exhibits I've just  
(20) put in front of you?  
(21) A: Yes.  
(22) Q: And the certified receipt, is that the —  
(23) A: Yes.  
(24) Q: — receipt that you used to send B and C to

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(1) A: No.  
(2) Q: He did not describe —  
(3) A: A "no-show job" he might have said. I'm  
(4) not sure.  
(5) (Mr. Keefe is laughing)  
(6) Q: But he might have said "no-show job"?  
(7) A: Yeah.  
(8) Q: Did anybody from the Rules Committee ask  
(9) him what he meant by a no-show job?  
(10) A: I don't know.  
(11) Q: Do you know why a vote was taken to  
(12) possibly reinstate Mr. Keefe?  
(13) A: Well, we wanted to get his version on  
(14) whether or not he had another job or not, if those  
(15) papers were true. I asked him directly, "Do you  
(16) have another job?" He said, "Yes."  
(17) Q: Would you consider a no-show job to be a  
(18) violation of Rule 36?  
(19) A: Yes.  
(20) Q: Why?  
(21) A: He's not exclusively at the craft.  
(22) Q: Even if he doesn't have to show up to work?  
(23) A: It's not exclusive to the craft. I asked  
(24) him how much did he make. He said \$5,000 a month.

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(1) Mr. Keefe?  
(2) A: Yes.  
(3) Q: And this is what you've mailed on  
(4) February 16th of 2003?  
(5) A: Yes.  
(6) Q: Exhibit 3 goes on to say, "On March 5,  
(7) 2003, a vote was passed to possibly reinstate  
(8) Stephen Keefe into Gang 10 before April 1, 2003.  
(9) Mr. Keefe must bring in more proof that he did not  
(10) violate Rule 37. Mr. Keefe did attend that  
(11) meeting."  
(12) Do you see that paragraph?  
(13) A: Yes.  
(14) Q: Other than what's written there, do you  
(15) recall what was said at that meeting?  
(16) A: A little bit.  
(17) Q: What do you recall?  
(18) A: We asked Mr. Keefe if he had another job.  
(19) Q: And what did Mr. Keefe say?  
(20) A: "Yes."  
(21) Q: Do you recall anything else?  
(22) A: He said he's going to resign next month or  
(23) the month after that.  
(24) Q: Did he describe this job to you?

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(1) Q: So the issue is the amount of money he  
(2) makes?  
(3) A: Not at all. Not at all.  
(4) Q: Okay. So it's how much he works at  
(5) something other than the craft?  
(6) A: No. "Exclusively at the craft" is  
(7) exclusively at the craft.  
(8) Q: How about if you rehab buildings?  
(9) A: I'm still exclusive to the craft.  
(10) Q: Even though you're rehabbing residential  
(11) homes?  
(12) A: (Nods head)  
(13) Q: In your opinion?  
(14) A: My opinion.  
(15) Q: Okay. With regard to — do you own  
(16) property that you rent out or lease out other than  
(17) in East Boston?  
(18) A: South Boston.  
(19) Q: I'm sorry. I did it again. South Boston.  
(20) How many properties do you lease or rent  
(21) out?  
(22) A: Two.  
(23) Q: Do you maintain all of them?  
(24) A: Uh-huh.

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[1] Q: Is that a yes?

[2] A: Yes.

[3] Q: Do you hire anyone to manage these

[4] properties?

[5] A: No. It's a two-family, my mother and

[6] father — it's my father's house. My father lives

[7] there.

[8] Q: But you manage it?

[9] A: Yes.

[10] Q: And you manage both the properties you've

[11] now mentioned?

[12] A: I don't understand about "manage."

[13] Q: You don't pay anyone —

[14] A: No.

[15] Q: — to manage it?

[16] A: No. I look after them myself.

[17] Q: Does anyone else besides yourself look

[18] after the property?

[19] A: No — my father.

[20] Q: You go on to state "On March 12, 2003, I

[21] Joseph Picard, Jr., mailed Stephen Keefe a summons

[22] to appear — to appear at the next monthly Rules

[23] Committee meeting March 20, 2003, Letter D. That

[24] letter was sent by regular mail."

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[1] Is that in fact the letter that was

[2] included?

[3] A: (Reviewing document) Yes.

[4] MR. LATHROP: Okay. May we have this

[5] marked as the next exhibit, please.

[6] (Document marked as Picard

[7] Exhibit 8 for identification)

[8] MR. MAHONEY: What was it yesterday?

[9] MR. LATHROP: Yesterday it was 19.

[10] MR. MAHONEY: What was 7 yesterday, Scott?

[11] MR. LATHROP: I don't have it organized

[12] that way, I'm sorry.

[13] MR. MAHONEY: Well, do you have 7 in front

[14] of you?

[15] MR. LATHROP: Someplace, yeah.

[16] Off the record.

[17] (Discussion off the record)

[18] MR. LATHROP: Back on the record.

[19] Q: The next sentence (indicating) in

[20] Exhibit 3, Mr. Picard says, "On March 20, a motion

[21] was passed to rescind the vote taken on March 5,

[22] 2003, that Mr. Keefe did violated the Rule No. 37.

[23] Mr. Keefe did not attend the meeting."

[24] A: Uh-huh.

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[1] Q: Other than what's written there, do you

[2] recall anything else about that particular vote or

[3] meeting?

[4] A: No.

[5] Q: Do you know a longshoreman by the name of

[6] Danny Conroy?

[7] A: A little bit.

[8] Q: Do you know what gang he's in?

[9] A: I don't think he's a longshoreman. I think

[10] he's a clerk.

[11] Q: Do you know whether or not he has his own

[12] business?

[13] A: I don't think he's a longshoreman, is he?

[14] I don't know him as a longshoreman.

[15] Q: How do you know him?

[16] A: I think he's a clerk.

[17] MR. LATHROP: Mark this as the next exhibit

[18] in line.

[19] (Document marked as Picard

[20] Exhibit 9 for identification)

[21] A: Conroy, I don't think he's a longshoreman.

[22] I don't know.

[23] Q: Mr. Picard, I'm showing you what's been

[24] marked as Exhibit 9, which purports to be an article

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[1] in the SouthBostonOnline dated June 23, 2005, that

[2] references a Danny Conroy.

[3] A: I know him (indicating).

[4] Q: Do you recognize the picture?

[5] A: I recognize the picture, yeah.

[6] Q: Do you see where in the very last phrase on

[7] the first page it says, "He is a longshoreman."

[8] A: Okay. Yes.

[9] Q: Okay. Do you know whether or not he's ever

[10] been investigated for —

[11] A: He's not a longshoreman.

[12] Q: You believe this representation in the

[13] article is incorrect?

[14] A: Clerks will say they're longshoreman. Line

[15] handlers say they're longshoreman. To my knowledge,

[16] he's not a longshoreman.

[17] Q: Is he a member of —

[18] A: 1066.

[19] Q: What is 1066?

[20] A: Local 1066.

[21] Q: Do you know a person by the name of

[22] Brendan Lee?

[23] A: Yes.

[24] Q: Who is that?



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[1] A: He's a member in — I don't know which gang  
[2] he is in. One of the gangs.  
[3] Q: Okay. Do you know whether or not he has  
[4] another occupation?  
[5] A: Another job? No. He was investigated.  
[6] Q: Why was he investigated?  
[7] A: We all were investigated in the — he holds  
[8] a law degree.  
[9] Q: Do you know whether or not he practices  
[10] law?  
[11] A: No, I don't.  
[12] Q: Did you make any effort to find out?  
[13] A: Yes.  
[14] Q: What did you do?  
[15] A: We got his Social Security taxes, and we  
[16] called up the place he used to work, and he doesn't  
[17] work there.  
[18] Q: And do you have any idea if he's  
[19] self-employed as a lawyer?  
[20] A: No, I don't.  
[21] Q: What efforts did you make to find out  
[22] whether or not he was self-employed as a lawyer?  
[23] A: What efforts did I make personally?  
[24] Q: The Rules Committee.

[1] A: A Wag is whatever job comes around, he will  
[2] take.  
[3] Q: Do you know what businesses he's worked  
[4] for?  
[5] A: No.  
[6] Q: Do you know a Mr. Sadogren?  
[7] A: Uh-huh.  
[8] Q: Who is he?  
[9] A: A friend of mine.  
[10] Q: Has he worked in the port?  
[11] A: Yes.  
[12] Q: In what position?  
[13] A: Whatever we needed. Driver. Whatever he  
[14] need.  
[15] Q: Is he a member of the local?  
[16] A: No.  
[17] Q: To your knowledge, have they ever been  
[18] issued paychecks by any business working out of the  
[19] Port of Boston?  
[20] A: Did they ever receive any what, paychecks?  
[21] Q: Have any paychecks ever been issued to any  
[22] of them?  
[23] A: Probably.  
[24] \*Q. Have you ever signed any of their

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[1] A: I don't know what they did.  
[2] Q: Are you familiar with a Robert McNeil?  
[3] A: Robert McNeil? A longshoreman?  
[4] Q: Are you familiar with a Robert McNeil?  
[5] A: Yes.  
[6] Q: And who is he?  
[7] A: A friend of mine.  
[8] Q: Okay. Is he a longshoreman?  
[9] A: No.  
[10] Q: Is he a member of a local?  
[11] A: No.  
[12] Q: Has he ever worked in the Port of Boston?  
[13] A: I don't know. Maybe. One time or another  
[14] maybe. He probably did years ago.  
[15] Q: Do you know a Robert Patrino?  
[16] A: A friend of mine.  
[17] Q: Has he ever worked for the Port of Boston?  
[18] A: Yes.  
[19] Q: Is he a member of any of the locals?  
[20] A: No.  
[21] Q: What position has he held — what work has  
[22] he done?  
[23] A: He's a Wag.  
[24] Q: A "Wag"?

[1] paychecks?  
[2] \*A. Yeah.  
[3] \*Q. And have you ever deposited the money from  
[4] those paychecks?  
[5] \*A. Sure.  
[6] MR. McNELLEY: Joe —  
[7] \*Q. And you deposited it into your own bank  
[8] account?  
[9] MR. McNELLEY: I'm going to object to the  
[10] question. Obviously, there are other matters  
[11] pending here, and I just don't feel that we need to  
[12] get into this right now.  
[13] I don't think this has anything to do with  
[14] the purpose of what this deposition was, and we're  
[15] going to restrict the questioning.  
[16] MR. MAHONEY: Well, I'm going to agree with  
[17] Mr. McNelly. It's not clear to me how these last  
[18] few questions are reasonably calculated to lead to  
[19] the discovery of admissible evidence in this case.  
[20] MR. LATHROP: Well, first, we can certainly  
[21] argue relevance and so forth. But I want to  
[22] understand your instruction.  
[23] Are you telling him not to answer?  
[24] MR. McNELLEY: That's correct.

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(1) What I am telling you is that this has gone  
 (2) far afield. We're here. You asked for documents.  
 (3) We've produced the documents. You asked him the  
 (4) question as his duties relate to the Rules  
 (5) Committee. He has informed you that these people  
 (6) are not longshoremen; that they work as Wags.  
 (7) You're going far afield.  
 (8) **MR. LATHROP:** Well, you don't have the  
 (9) benefit of understanding the full lawsuit here. We  
 (10) are contending that Mr. Keefe only had another  
 (11) source of income and that he was suspended for that.  
 (12) And I'm getting into the issue of other  
 (13) income —  
 (14) **MR. McNELLEY:** Again —  
 (15) **MR. LATHROP:** — by Mr. Picard.  
 (16) **MR. McNELLEY:** Again, there are other  
 (17) matters that you —  
 (18) **MR. LATHROP:** You may have concerns about  
 (19) other matters, but —  
 (20) **MR. McNELLEY:** We are not going to address  
 (21) them.  
 (22) **MR. LATHROP:** — I'm concerned about this  
 (23) lawsuit.  
 (24) **MR. McNELLEY:** Well, we are not going to

(1) of questioning.  
 (2) **MR. McNELLEY:** Right.  
 (3) **MR. MAHONEY:** Well, let me add that we had  
 (4) a hearing before the court on this case, and it's my  
 (5) recollection — Mr. McNelley was in attendance as  
 (6) well — that the judge severely restricted the line  
 (7) of questioning on these issues and cut back on the  
 (8) subpoenas that were issued to Mr. Picard and others  
 (9) and instructed counsel from the bench that he was  
 (10) not going to tolerate a fishing expedition.  
 (11) So I also think that the questions as  
 (12) recently posed are in violation of the court's  
 (13) order, which, when it turns to me to ask questions,  
 (14) I'm going to mark as an exhibit.  
 (15) **MR. LATHROP:** Well, you can certainly do  
 (16) that. In fact, I invite you to do that. Because,  
 (17) as you recall, the order had to do with a subpoena.  
 (18) It had nothing to do with, in advance, questions at  
 (19) a deposition.  
 (20) So, please, I would invite you in light of  
 (21) your —  
 (22) **MR. MAHONEY:** I accept your invitation.  
 (23) **MR. LATHROP:** Thank you.  
 (24) **MR. MAHONEY:** Scott, you're really

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(1) address them.  
 (2) **MR. LATHROP:** You're not going to address  
 (3) the issue of other income —  
 (4) **MR. McNELLEY:** Not where you're going with  
 (5) those questions, no.  
 (6) **MR. LATHROP:** Let me —  
 (7) **MR. McNELLEY:** If you have other  
 (8) questions —  
 (9) **MR. LATHROP:** Let me —  
 (10) **MR. McNELLEY:** — you can pursue...  
 (11) **MR. LATHROP:** Please, you're interrupting.  
 (12) I want to at least state for the record —  
 (13) **MR. McNELLEY:** I didn't interrupt you. You  
 (14) stopped and I answered.  
 (15) **MR. LATHROP:** Well, let me continue on,  
 (16) then, so that it's clear for the record because this  
 (17) deposition, obviously, will not be finished today.  
 (18) It will be suspended.  
 (19) But I would want to make inquiry into other  
 (20) sources of income that Mr. Picard has just as  
 (21) Mr. Keefe had sources of income.  
 (22) And the questions I'm asking relate to  
 (23) other income whether reported, quite frankly, or  
 (24) not, to the IRS. And that's the purpose of my line

(1) splitting hairs because the judge came down on you,  
 (2) and you know it. He said he wasn't going to allow  
 (3) fishing expeditions; and, in fact, this is exactly  
 (4) what's going on now.  
 (5) All right. Let's take a break now. I'm  
 (6) going to go get the order.  
 (7) **MR. LATHROP:** Please.  
 (8) Off the record.  
 (9) (A brief recess was taken)  
 (10) **MR. LATHROP:** Back on the record.  
 (11) I have no further questions of this  
 (12) witness.  
 (13) **MR. McNELLEY:** Could I ask that the last  
 (14) couple of questions and answers be read back.  
 (15) (Questions and answers read)  
 (16) **MR. LATHROP:** I have no further questions.  
 (17) **MR. McNELLEY:** I'd just like to put on the  
 (18) record that I object to the last three questions as  
 (19) far exceeding the scope of permissible discovery.  
 (20) **MR. LATHROP:** Anything else?  
 (21) **MR. McNELLEY:** If we could have a minute.  
 (22) (Counsel confers with witness)  
 (23)  
 (24)

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**CROSS EXAMINATION  
BY MR. McNELLEY:**

Q: I just have a couple of questions of you, Mr. Picard. Mr. Picard, there's been some reference made of a couple of properties, one in East Boston and one in South Boston.

Are these properties that you and your wife have bought as investment properties?

A: Yes.

Q: And do you maintain the properties in the normal course of owning some investment properties?

A: Yes.

Q: And do you also live in a home up in Melrose?

A: Yes.

Q: And do you maintain that home as you do the properties in East Boston and South Boston?

A: Yes.

Q: Is there any difference from maintaining your own home that you live in and your investment properties?

A: No.

Q: Do you derive any Social — do you derive any W-2s from owning these properties?

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A: No.

Q: Is the income that you derive from the properties reported on your tax returns as rental income?

A: Yes.

Q: And then are certain deductions made accordingly for taxes and mortgage interest and other issues?

A: Yes.

Q: Do you know the difference between passive and active income?

A: No.

Q: One being if you work at a job, in other words, as a longshoreman, where you would do — perform labors and receive a W-2 form as opposed to investment properties, interest in bank accounts, stock accounts.

MR. LATHROP: Objection to the form of the question.

A: Yes.

Q: The income that you derive from the income property, you would consider that to be active or passive income?

MR. LATHROP: Objection as to the form of

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the question.

A: Passive.

Q: Could you define to me, because I'm a little miffed in all my years on this earth, what a "no-show job" is?

A: You get paid for not being there, I guess.

Q: If you get paid for not being there, would that be considered larceny, or stealing?

A: Yes.

Q: I mean, are there many of these no-show jobs? Because I think I've missed the boat here for a lot of years.

A: No. We don't know anybody else that has a no-show job down there.

Q: But, I mean, you would consider somebody that has a no-show job that was deriving — and I think it was said \$5,000 a month —

A: Right.

Q: — would you consider that stealing from somebody?

A: Well, you got two places at the same time, so I don't know — I don't know much about it, what his hours are.

Q: Okay. But that's how the job that

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Mr. Keefe had was at least reported to you from Mr. Keefe; isn't that right?

A: Yes.

Q: As a no-show job for \$5,000 a month?

A: A no-show job.

Q: You brought certain documents here today, those documents being your tax returns —

A: Yes.

Q: — for the years 2002 up to 2005?

A: Yes.

Q: Do you remember the conversation that we've had over the last couple of weeks and more particularly on Friday and Monday?

A: Yes.

Q: And do you remember that I told you that the court order would have us deduct, or black out, everything other than any income that was reported from another source, a 1099 or a W-2?

MR. LATHROP: Excuse me. Are you waiving attorney-client privilege?

MR. McNELLEY: Nope. I'm just asking him a question, if he's aware of the —

MR. LATHROP: You're asking him a question about the conversation the two of you had?



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(1) Q: Are you aware that on —  
 (2) MR. McNELLEY: As a matter of fact, strike  
 (3) it. No more questions.  
 (4) MR. LATHROP: Okay. I have some followup.  
 (5) MR. MAHONEY: Well, I have some questions.  
 (6) MR. LATHROP: Okay.  
 (7) MR. MAHONEY: Can we mark the court order  
 (8) as the next exhibit, please.  
 (9) MR. McNELLEY: Yup.  
 (10) (Document marked as Picard  
 (11) Exhibit 10 for identification)  
 (12) CROSS EXAMINATION  
 (13) BY MR. MAHONEY:  
 (14) Q: Mr. Picard, are you aware that you were  
 (15) subpoenaed, and then the subpoena was a subject of a  
 (16) motion for protective order and then a resulting  
 (17) court order regarding what documents you had to  
 (18) bring to today's deposition?  
 (19) A: Yes.  
 (20) Q: You're aware of that?  
 (21) A: Yes.  
 (22) Q: And you brought the documents with you?  
 (23) A: Yes.  
 (24) MR. MAHONEY: Okay. The documents have not

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(1) been marked, but so the record is clear, Mr. Picard  
 (2) has complied with the subpoena?  
 (3) MR. LATHROP: I think we already  
 (4) established that at the beginning.  
 (5) MR. McNELLEY: Right.  
 (6) Q: Mr. Picard, I'm going to show you a number  
 (7) of exhibits that were marked at yesterday's  
 (8) deposition. The first is Exhibit 1. Have you ever  
 (9) seen that exhibit before today? And that document,  
 (10) for the record, is the Exhibit 1 from Mr. Keefe's  
 (11) deposition.  
 (12) A: I'm not sure.  
 (13) Q: That's a W-2 from 2003 from Mr. John T.  
 (14) Clark; is that right?  
 (15) A: Yes, yes.  
 (16) Q: What's your understanding of a W-2? Why is  
 (17) it issued?  
 (18) A: You work at this job, and they give you a  
 (19) W-2 at the end of the year.  
 (20) Q: When you spoke with Mr. Keefe at one of the  
 (21) Rules Committee meetings, do you recall whether or  
 (22) not he told you that he also received full health  
 (23) benefits from John T. Clark as well?  
 (24) A: And a car also, I think.

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(1) MR. LATHROP: Objection as to the form of  
 (2) the question.  
 (3) Q: All right. I'm going to show you — can I  
 (4) have that one back, please — what was marked  
 (5) yesterday as Exhibit 1B at Mr. Keefe's deposition.  
 (6) Have you ever seen that document before?  
 (7) A: I'm not sure.  
 (8) Q: Were you aware that —  
 (9) A: Yes.  
 (10) Q: — in 2003 that Mr. Keefe collected  
 (11) unemployment compensation from the Commonwealth?  
 (12) A: Yes.  
 (13) Q: When were you aware of that?  
 (14) A: He come in and showed us his unemployment  
 (15) card.  
 (16) Q: At the Rules Committee meeting?  
 (17) A: Yes.  
 (18) Q: Who did he tell you that he had recently  
 (19) been unemployed by, if he told you that?  
 (20) A: John T. Clark.  
 (21) Q: His suspension by the Rules Committee was  
 (22) for six months, do you recall?  
 (23) A: I think so.  
 (24) Q: And was he ever informed, to the best of

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(1) your knowledge, that if he provided documentation  
 (2) that he was no longer working at John T. Clark & Son  
 (3) that he would be put back into Gang 11?  
 (4) A: Right, yes.  
 (5) Q: What's your memory? Was it he was  
 (6) suspended for six months regardless, or if he came  
 (7) in with documentation, he would be put back on  
 (8) sooner than the six-month suspension?  
 (9) A: He'd be suspended regardless.  
 (10) Q: Okay. And then subsequent to serving out  
 (11) the suspension, he had to prove to the Rules  
 (12) Committee that he was no longer employed —  
 (13) A: No longer employed.  
 (14) Q: — by John T. Clark & Son; is that correct?  
 (15) A: Yes.  
 (16) Q: Are you aware of any provision in the  
 (17) L.L.A. constitution or any provision in the Hiring  
 (18) Hall Rules that mandate that you when send out a  
 (19) notice or a summons to a member to appear at the  
 (20) Rules Committee that it has to be sent by certified  
 (21) mail?  
 (22) A: No, I don't know that.  
 (23) MR. MAHONEY: That's all I have. Thank  
 (24) you.

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**REDIRECT EXAMINATION**  
**BY MR. LATHROP:**

[1] Q: Mr. Picard, when Mr. Keefe was suspended,  
[2] he was actually in Gang 10 at that point; is that  
[3] correct?  
[4] A: I don't know what gang he was in.  
[5] Q: Let me show you Exhibit 3, your own letter  
[6] to Mr. McNamara. Does that refresh your memory that  
[7] he was in Gang 10 at the time of his suspension?  
[8] A: Okay. Yes.  
[9] Q: Okay. And so when the suspension was over,  
[10] he was put in what, Gang 11?  
[11] A: Gang 11.  
[12] Q: How long after his suspension was over did  
[13] he — if ever, did he make it back to Gang 10 where  
[14] he was before his suspension?  
[15] A: I imagine you have to go two years in  
[16] Gang 11 and then one year in Gang 10.  
[17] Q: Okay. So as a result of the alleged  
[18] violation of Rule 37, he was removed from Gang 10 on  
[19] the order of two years?  
[20] MR. MAHONEY: Objection to the form. You  
[21] said "37." It's 36.  
[22] MR. LATHROP: You're right. It's 36. That

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[1] says Rule 37, so I got confused.  
[2] A: 36, yes.  
[3] Q: Yes?  
[4] A: Yes.  
[5] Q: Okay. Now, in terms of this, you were  
[6] asked by your attorney whether or not you deemed it  
[7] stealing for this no-show job? You know, in fact,  
[8] that the no-show job that Mr. Keefe was talking  
[9] about was from a family business, right?  
[10] A: Well, his brother owned the business.  
[11] Q: Yeah. John T. Clark?  
[12] A: John T. Clark, right.  
[13] Q: Right. And is it really your belief and  
[14] representation to the court that you considered that  
[15] stealing because he had a no-show job with his  
[16] brother?  
[17] A: He signed a pledge sheet.  
[18] Q: That's not the question.  
[19] Is it really your representation under oath  
[20] to the judge and the jury that you deemed that  
[21] stealing because he had a no-show job with his  
[22] brother's company?  
[23] A: I never said "stealing."  
[24] Q: Okay. So you didn't believe that? You

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[1] didn't believe that to be stealing, to have a  
[2] no-show job with his brother's company?  
[3] A: I never said stealing. He had another job,  
[4] yes.  
[5] Q: It was a no-show job, as you understood it,  
[6] with his brother's company?  
[7] A: Right. That's what he said. No-show job.  
[8] Q: But I'm emphasizing "with his brother's  
[9] company"?  
[10] A: His brother's company.  
[11] Q: And you knew that at the time?  
[12] A: That it was his brother's company, yes.  
[13] MR. MAHONEY: Well, just to the form. At  
[14] what time, the time of the suspension?  
[15] MR. LATHROP: At the time of the  
[16] suspension, yes.  
[17] Q: You knew that at the time of the  
[18] suspension?  
[19] A: Yes.  
[20] MR. LATHROP: Okay. I have nothing  
[21] further.  
[22] **RECROSS EXAMINATION**  
**BY MR. MAHONEY:**  
[23] Q: You viewed his employment with John T.

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[1] Clark & Son as a violation of his pledge, right?  
[2] A: Yes.  
[3] Q: And you viewed that as dishonest; is that  
[4] right?  
[5] A: Yes.  
[6] MR. MAHONEY: That's all I have.  
[7] MR. LATHROP: I have nothing further.  
[8] MR. McNELLEY: That's it. You're done.  
[9] (Whereupon, the deposition was  
[10] suspended at 11:46 a.m.)  
[11]  
[12]  
[13]  
[14]  
[15]  
[16]  
[17]  
[18]  
[19]  
[20]  
[21]  
[22]  
[23]  
[24]

**CERTIFICATE**

[1]  
[2] I, JOSEPH J. PICARD, JR., do hereby certify that  
[3] I have read the foregoing transcript of my  
[4] testimony, and further certify under the pains and  
[5] penalties of perjury that said transcript  
[6] (with/without) suggested corrections is a true and  
[7] accurate record of said testimony.

[8] Dated at \_\_, this day of ,  
[9] 2006.

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**COMMONWEALTH OF MASSACHUSETTS)**

[1] SUFFOLK, SS.)

[2] I, Valerie L. Shand-Salama, Professional  
[3] Shorthand Reporter and Notary Public in and for the  
[4] Commonwealth of Massachusetts, do hereby certify  
[5] that there came before me on the 9th day of May 2006  
[6] at 10:21 a.m., the person hereinbefore named, who  
[7] was by me duly sworn to testify to the truth and  
[8] nothing but the truth of his knowledge touching and  
[9] concerning the matters in controversy in this cause;  
[10] that he was thereupon examined upon his oath, and  
[11] his examination reduced to typewriting under my  
[12] direction; and that the deposition is a true record  
[13] of the testimony given by the witness.

[14] I further certify that I am neither attorney or  
[15] counsel for, nor related to or employed by, any  
[16] attorney or counsel employed by the parties hereto  
[17] or financially interested in the action.

[18] In witness whereof, I have hereunto set my hand  
[19] and affixed my notarial seal this day of May  
[20] 2006.

[21]  
[22] Notary Public  
[23] My commission expires 12/15/2011  
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